



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG-2017-0894]

RIN 1625-ZA37

Update to the 2016 National Preparedness for Response Exercise Program (PREP)

Guidelines

AGENCY: Coast Guard, DHS

ACTION: Notice of availability of the 2016.1 PREP Guidelines.

SUMMARY: The Coast Guard announces the availability of the final 2016.1 National Preparedness for Response Exercise Program (PREP) Guidelines. The Coast Guard publishes this notice on behalf of the Preparedness for Response Exercise Program Compliance, Coordination, and Consistency Committee (PREP 4C). The PREP 4C includes representatives from the Coast Guard under the Department of Homeland Security, the Environmental Protection Agency, the Pipeline and Hazardous Materials Safety Administration under the Department of Transportation, and the Bureau of Safety and Environmental Enforcement under the Department of the Interior.

DATES: The 2016.1 PREP Guidelines are effective on October 1, 2018.

ADDRESSES: To view the 2016.1 PREP Guidelines, as well as documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>, type “USCG-2017-0894” and click “Search.” Then click the “Open Docket Folder.”

FOR FURTHER INFORMATION CONTACT: For information about the 2016.1 PREP Guidelines, call Mr. Jonathan Smith, Office of Marine Environmental Response

Policy, Coast Guard, telephone 202-372-2675; Mr. Troy Swackhammer, Office of Emergency Management, Regulations Implementation Division, Environmental Protection Agency, telephone 202-564-1966; Mr. John Caplis, Oil Spill Preparedness Division, Bureau of Safety and Environmental Enforcement, telephone 703-787-1364; and Mr. Eddie Murphy, Office of Pipeline Safety, Department of Transportation, telephone 202-366-4595.

SUPPLEMENTARY INFORMATION:

I. Abbreviations

BSEE	Bureau of Safety and Environmental Enforcement
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FR	Federal Register
HSEEP	Homeland Security Exercise and Evaluation Program
IMT	Incident Management Team
MSEL	Master Scenario Event List
PREP	Preparedness for Response Exercise Program
PREP 4C	PREP Compliance, Coordination, and Consistency Committee
QI	Qualified Individual
RAC	Remote Assessment and Consultation
SMFF	Salvage and Marine Firefighting
TTX	Tabletop exercise

II. Background

On December 22, 2017, the Coast Guard, on behalf of the Preparedness for Response Exercise Program Compliance, Coordination, and Consistency Committee (PREP 4C), published for public comment a draft update to the 2016 PREP Guidelines in the **Federal Register** (82 FR 60693). We referred to the draft update as the “2016.1 PREP Guidelines.” On February 26, 2018, the Coast Guard published for public comment (83 FR 8290) an economic analysis of the potential deregulatory savings that may result from the draft update. During the 2 public comment periods, we received 11

comments. One commenter submitted an identical comment three times. Therefore, the docket reflects 13 submissions. All comments are posted on <http://www.regulations.gov> under docket number USCG-2017-0894. Below are our responses to the public comments and a discussion of the changes made as a result of the public comments.

III. Summary of Comments and Changes

Of the 11 comment submissions received over the 2 comment periods, 9 addressed the proposed reduction to the Remote Assessment and Consultation (RAC) drill frequency. Four of these submissions were generally unsupportive of the proposed reduction to the RAC drill frequency, while five were generally supportive. None of the comments regarding the frequency of RAC drills were submitted by plan holders. With the exception of one, all comments in support of reducing the frequency of RAC drills were from salvage providers. One salvage provider opposed reducing the frequency of RAC drills. The other commenters who opposed reducing the frequency of RAC drills were from individual citizens and citizens' advisory councils who felt that reducing RAC drill frequency from one drill per year to once every 3 years is inadequate for purposes of ensuring the salvage providers fully recognize the scope of area for which they are responsible to cover. Three comment submissions addressed concerns regarding the language for Incident Management Team (IMT) exercises for offshore facilities regulated by the Bureau of Safety and Environmental Enforcement (BSEE), which include (1) the members of an IMT which must be exercised, (2) the involvement of participating IMT members in the design phase of the exercise, (3) the exercising of source control positions, and (4) the requirement that IMT exercises must be a functional exercise rather than a tabletop exercise for offshore facilities as outlined in section 6.2 and appendix B of

the PREP Guidelines. One comment submission addressed concerns over response timelines for facilities regulated by the Environmental Protection Agency (EPA) in remote locations.

Coast Guard Response to Industry Comments

One commenter noted the Coast Guard “committed waste by conducting a deregulatory savings analysis for guidelines that are voluntary to regulated industry and for which, the Coast Guard did not identify any costs or potential cost savings associated with the Federal Government.” The commenter also noted the annualized cost savings analysis to the maritime industry is a benefit to private industry that apparently outweighs the Coast Guard’s own policy to ensure adequate spill response planning and preparedness. Finally, the commenter noted, “the potential costs and benefits were originally determined to be found ‘not significant.’”

Response: As mentioned above, the Coast Guard conducted a deregulatory savings analysis for the population affected by a reduction in RAC drills, which are plan holders that would be required to conduct RAC drills for vessels listed in their respective response plans. As stated in our deregulatory savings analysis, we did not identify any cost savings associated with the Federal Government. We disagree with the commenter that the “benefit to private industry apparently outweighs the Coast Guard’s own policy to ensure adequate spill response planning and preparedness...” First and foremost, we do not believe plan holders’ response preparedness will degrade by reducing RAC drills. Our intent in reducing the frequency of RAC drills is to establish adequate spill response planning and preparedness without imposing an undue burden on plan holders. Finally, we are unsure what the commenter is referring to when the commenter states, “the

potential costs and benefits [...] were originally determined to be found not significant.”

The Coast Guard did not make a prior statement regarding the significance or non-significance of the potential costs and benefits in either the deregulatory savings analysis or the notice of availability, in which we invited the public to comment on the deregulatory savings analysis.

Reduction of RAC drill frequency: As mentioned above, 9 of the 11 comment submissions concerned the proposed Coast Guard change that reduced the RAC drill frequency from one annual RAC drill per vessel to one triennial RAC drill per plan holder, noting that a single plan holder may have responsibility over a fleet of vessels and not just one vessel. The supportive comments cited the financial and administrative burden of the current RAC drill frequency, and one commenter noted that the proposed reduction in frequency is more reasonable and would not degrade response preparedness. The opposing comments noted that the reduction in RAC drills would diminish vessel master or crew familiarity with Salvage and Marine Firefighting (SMFF) emergency protocols, and would degrade overall preparedness. Additionally, the unsupportive comments cited the importance of keeping RAC drills as unique, vessel-centric drills that emphasize interaction between vessel crew and salvage provider, versus plan holder-centric drills. Additionally, commenters that opposed the reduction in RAC drills were concerned that the proposed reduction in drill frequency would diminish the SMFF provider’s ability to accurately assess a condition that may be compromising to the safety of a vessel and that, in turn, could impair the effectiveness of a response.

Response: The purpose of a required RAC drill is to exercise the procedure for a RAC performed between the SMFF provider and the vessel owner or operator. We

expect these drills to be more than just notifications and, instead, seek to encourage substantive interaction between the vessel master and crew and the SMFF provider. The Coast Guard believes the benefit of exercising one vessel in a plan will extend to all vessels in the plan.

Randomized selection of a vessel within a fleet for RAC drill purposes: One commenter noted the need to add language specifying random selection of a vessel within a fleet for purposes of performing a RAC drill.

Response: Under the final 2016.1 PREP Guidelines, the plan holder has discretion for vessel selection. Nevertheless, this suggestion has merit and we urge plan holders to conduct random selections when determining which vessel, within a fleet of vessels, performs a RAC drill. Moreover, the Coast Guard will consider adding a “random selection” requirement in future revisions to the PREP Guidelines.

Recordkeeping for RAC drills: One commenter noted some confusing language in the guidelines regarding whether both the Qualified Individual (QI) and the vessel are required to retain records.

Response: Coast Guard regulations require the vessel owner to maintain records for training and exercises. Pursuant to 33 CFR 155.1060(f), a vessel owner or operator must ensure that exercise records are maintained and available to the Coast Guard for 3 years following the completion of the exercise. Under existing PREP guidelines, the vessel owner or operator must maintain RAC exercise records for manned vessels in a minimum of two locations, on the vessel and with one of the following: the U.S. location of the QI, the vessel owner or operator, the IMT, or the SMFF provider. The Vessel Response Plan must state the location of the records. This requirement remains

unchanged in the 2016.1 PREP Guidelines. Currently, PREP guidelines require RAC exercise records for unmanned tank barges to be kept either on board the barge or with the Vessel Response Plan for the barge. This requirement remains unchanged in the 2016.1 PREP Guidelines. However, the Coast Guard may consider changing the required location of RAC exercise records for both manned and unmanned vessels now that the requirement applies to plan holders, and may include a fleet of vessels covered by a plan. Until that time, we encourage plan holders to maintain RAC exercise records on board each vessel on the plan. This will assist the Coast Guard when it verifies compliance with exercise requirements during vessel inspections.

Environmental Protection Agency-Regulated Facilities Comments

Alternative timelines for extreme situations: One commenter suggested that the Environmental Protection Agency (EPA) allow regional administrators to develop alternative timelines for “extreme situations” when it is unfeasible to secure oil spill recovery equipment on scene within response timelines specified in 40 CFR part 112 because of the geographic remoteness of some facilities.

Response: The EPA's Facility Response Plan regulation in 40 CFR part 112, subpart D, does not include a provision to request alternate timeframes outlined in appendix E for responses to small, medium, and worst-case discharge planning levels. However, the EPA encourages plan holders to evaluate the specific response needs (both equipment and personnel considerations) for their facilities, which may include partnerships with companies operating in the same oil fields.

Bureau of Safety and Environmental Enforcement-Regulated Offshore Facilities Comments

Participation of the Incident Commander during an IMT exercise: One commenter stated that the proposed change in section 6.2 of the guidelines, which involves including the “command and general staffs, at a minimum,” would require the participation by every member of the IMT in each IMT exercise. The commenter recommended changing the language to state that the “incident command, as well as the command and general staff, may be exercised with appropriate objectives during an IMT exercise.”

Response: BSEE agrees with the commenter that not all members of the entire IMT must participate in each IMT exercise, but rather participation by the command and general staff in any particular IMT exercise should be driven by the objectives being tested. BSEE has adjusted the language to clarify this point in section 6.2 of the 2016.1 PREP Guidelines. The primary purpose for adjusting the language in section 6.2 is to clarify that the participating incident commander is considered part of the IMT that is being exercised and, as such, should not be given access to the script and Master Scenario Event List (MSEL) prior to the start of the exercise.

Including source control positions as exercise participants: One commenter stated that some IMT exercises might have source control objectives that are minimal in nature, such as only activating a source control provider, and would not require further participation of source control positions. This commenter suggested clarifying the language to state that source control positions should participate in an IMT exercise “as appropriate.”

Response: BSEE agrees that source control positions do not always need to be exercised for every scenario that has a source control component. The language in the

2016.1 PREP Guidelines states that a source control branch should be exercised when source control objectives are a significant element of the scenario. BSEE believes the existing language leads to the same outcome that the commenter wants, and that the existing language provides greater clarity regarding the agency's intent regarding this matter. As such, the existing language will remain unchanged.

Ensuring IMT exercise participants do not have prior knowledge of the exercise scenario: Three commenters commented on this issue. The first commenter stated that while there may be times when portions of the exercise specifics may have to be divulged to certain IMT members that will be playing in the exercise, those instances should be kept to a minimum. This commenter also noted that having advance knowledge of the scenario allows the players to develop tactics and strategies prior to the exercise. However, the commenter felt that developing solutions collaboratively between industry, government agencies, and other stakeholders during exercises provides a more valuable overall learning experience for participants.

Response: BSEE agrees.

The second commenter stated that the exercise scenario script is typically general in nature and does not greatly affect how the response is organized or conducted. The commenter also recommended amending language in the 2016.1 PREP Guidelines to refer to the MSEL instead of the scenario script.

Response: BSEE considers the MSEL to be a critical supporting document to the exercise scenario script, and agrees with the commenter that IMT members who participate in the exercise should not have prior access to or knowledge of the MSEL. BSEE has amended the language in section 6.2 of the 2016.1 PREP Guidelines to include

a reference to the MSEL in addition to the scenario script.

The third commenter agreed that preventing IMT participants from having prior access to the information on the exercise scenario results in a better test of preparedness. However, this commenter requested that BSEE clarify that these exercises test the overall preparedness of the company, rather than evaluate each IMT member's performance.

Response: BSEE believes that IMT exercises should test both the overall preparedness of the company and the individual preparedness of each member of the IMT, as appropriate, based on the exercise objectives. The performance of IMT members during an exercise is an important indicator of the plan holder's overall preparedness to respond to an actual incident, and should be evaluated. BSEE does not agree with, and has not adopted, the change requested by the commenter.

Exercising source control and subsea containment capabilities: One commenter stated that source control operations are the weak link in a major oil spill response and source control equipment should be exercised in the same way as any other spill response equipment, including offshore deployments.

Response: While BSEE agrees that source control is a critical part of any response, BSEE disagrees that source control equipment should be exercised in the same manner as all other spill response equipment. While this comment is outside of the scope of the changes proposed in the 2016.1 PREP Guidelines, this subject was addressed at length in the preamble of the **Federal Register** notice that published the final 2016 PREP Guidelines (81 FR 21362). As outlined in Notices to Lessees 2010-N10 and 2012-N06¹, 30 CFR part 254 requires a plan holder to describe a Worst Case Discharge in its plan,

¹ Notices to Lessees can be found on BSEE's website at <https://www.bsee.gov/guidance-and-regulations/guidance/notice-to-lessees>.

and then exercise how it will respond to the discharge, including identifying any equipment necessary to contain and recover the discharge. BSEE interprets this regulatory language to be inclusive of any resources necessary to contain and secure the source of a potential or actual discharge, which could include the use of well control capabilities such as capping stacks, cap and flow equipment, subsea containment devices, and other supporting equipment. As the current regulations in 30 CFR part 254 do not establish a required interval for the deployment of this type of equipment, the 2016.1 PREP Guidelines cannot provide any additional guidance on a specific exercise frequency requirement at this time. In the absence of any defined scope and frequency interval in the regulations, BSEE will continue to conduct deployments of source control capabilities at the discretion of the BSEE Oil Spill Preparedness Division Chief, in consultation with the appropriate BSEE Regional Director, as needed in order to assess and verify the overall preparedness of a plan holder, or group of plan holders, to operate in an Outer Continental Shelf region. As the scope and cost of such deployment exercises can be quite large, BSEE does not intend to require plan holders or providers of source control, subsea containment, and supporting equipment to conduct deployment exercises at the same semi-annual or annual frequency as required for other spill response equipment. BSEE purposely added section 6.5 to the 2016.1 PREP Guidelines to provide specific interim guidance for exercising source control and subsea containment equipment. BSEE will work to clarify expectations and requirements in the regulations in a future rulemaking.

The Nature of IMT exercises for offshore facilities: One commenter stated that the title of section 6.2 of the 2016.1 PREP Guidelines should be changed from

“Functional Exercise (FE): Incident Management Team Exercise – Offshore Facility” to “Tabletop Exercise (TTX): Incident Management Team Exercise – Offshore Facility” to better align with language in 30 CFR part 254.

Response: While this comment is outside of the scope of the proposed changes made in the 2016.1 PREP Guidelines, the BSEE feels it is important to provide clarification on this important issue. When the PREP 4C published the 2016 PREP Guidelines, it updated many terms and concepts to align with developments that have occurred in the National Response System since the previous version was published in 2002. This included adopting the term “Incident Management Team,” as opposed to “Spill Management Team,” as well as incorporating many elements of today’s exercise typology and terminology as established by the Homeland Security Exercise and Evaluation Program (HSEEP). As such, the 2016 PREP Guidelines changed “SMT Tabletop Exercises (TTX)” to “IMT Exercise.” This language was purposely adopted to allow each PREP agency the flexibility to determine the type and scope of the IMT exercise. As defined in HSEEP and the 2016 PREP Guidelines, a TTX is a type of discussion-based exercise intended to generate discussion of various issues regarding a hypothetical, simulated emergency. The 2016 PREP Guidelines also state that discussion-based exercises focus on strategic, policy-oriented issues, with facilitators or presenters usually leading the discussion to keep participants on track to meet exercise objectives. In addition, the 2016 PREP Guidelines state that functional exercises focus on exercising plans, policies, and procedures, and staff members are involved in management, direction, command, and control functions. In functional exercises, events are projected through an exercise scenario with event updates that drive activity at the

management level, and are conducted in a realistic, real-time environment, even though the movement of personnel and equipment is usually simulated. The BSEE believes that functional exercises, as currently defined by the terminology under HSEEP and the 2016 PREP Guidelines, more closely capture the stated intent of 30 CFR 254.42(b)(1), which provides that “the exercise must test the spill management team’s organization, communication and decision-making in managing a response.” Therefore, the BSEE will retain the “Functional Exercise (FE)” language in the existing title for section 6.2 of the 2016.1 PREP Guidelines. However, in a future regulatory update, the BSEE will amend the exercise terminology in 30 CFR 254.42(b)(1) to reflect that an annual IMT functional exercise is required to properly align the CFR terminology with today’s HSEEP and the PREP guidance. For additional background information on the adoption of HSEEP exercise terminology for the 2016 PREP Guidelines, see 81 FR 21362.

IV. Cost Savings Analysis

Since our affected population and projected cost estimates have remained the same from when we published the potential deregulatory savings analysis in February 2018, we have retained the projected cost-saving estimates for this notice, which we present below. As stated in the aforementioned economic analysis, which is available in the public docket, we estimate the net cost savings to the U.S. maritime industry to be \$1,084,671 annually (\$1,177,975 for drills under prior PREP Guidelines - \$93,304 for drills under new PREP Guidelines), undiscounted. We estimate the discounted net cost savings to the U.S. maritime industry over a 10-year period of analysis to be between \$7.6 million and \$9.3 million at 7- and 3-percent discount rates, respectively. The Coast

Guard did not identify any costs or potential cost savings associated with the Federal government as a result of the changes in the 2016.1 PREP Guidelines.

V. Public Availability of 2016.1 PREP Guidelines

The PREP 4C has finalized the 2016.1 PREP Guidelines, which are now publicly available. The Coast Guard is releasing the 2016.1 PREP Guidelines on behalf of the PREP 4C.

In addition to the docket, the 2016.1 PREP Guidelines are available at <https://homeport.uscg.mil/missions/incident-management-and-preparedness/contingency-exercises/port-level-exercises/port-level-exercises-general-information>.

Dated: September 27, 2018.

K. M. Sligh,
Acting Chief, Office of Marine Environmental Response Policy.
[FR Doc. 2018-21450 Filed: 10/1/2018 8:45 am; Publication Date: 10/2/2018]